

## Message Text

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ACTION EUR-12

INFO OCT-01 EA-10 ISO-00 ABF-01 PM-05 CIAE-00 INR-10  
NSAE-00 L-03 NSC-05 SP-02 SS-15 /064 W  
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P R 181813Z AUG 78  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC PRIORITY 1197  
SECDEF WASHDC PRIORITY  
INFO AMEMBASSY MANILA  
AMEMBASSY ROME  
AMEMBASSY SEOUL  
AMEMBASSY TOKYO  
CINC USAREUR HEIDELBERG  
USCINCEUR VAIHINGEN GE

C O N F I D E N T I A L BONN 15106

E.O. 11652: GDS  
TAGS: PGOV, MARR, GW, IT, JA, KS, RP  
SUBJECT: DRAFT GAO REPORT: PROPOSALS TO COPE WITH  
LACUNA IN US TRIBUNAL JURISDICTION OVER US  
DEPENDENTS STATIONED ABROAD

SECDEF FOR ISA AND OGC  
USAREUR FOR AEAJA  
CINC EUR FOR LEGAL ADVISER

1. ON AUGUST 10, FRANKFURT GAO FIELD OFFICE REP  
(LAMOTT) CALLED BRIEFLY ON EMBOFFS TO OBTAIN AN  
OFF-THE-CUFF REACTION FROM THEM TO DRAFT GAO REPORT CON-  
CERNING THE LACUNA IN US CRIMINAL JURISDICTION OVER  
DEPENDENTS OF THE US MILITARY AND THE CIVILIAN COMPONENT  
STATIONED ABROAD. THE ABSENCE OF US MILITARY JURISDICTION  
OVER SUCH PERSONS UNDER THE UCMJ WITH RESPECT TO CRIMINAL  
ACTS COMMITTED, FOR WHICH THE HOST NATIONS FREQUENTLY HAVE  
NO INTEREST TO PROSECUTE US NATIONALS, PARTICULARLY WHEN  
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THE OFFENSES ARE INTER SE, HAS EXISTED SINCE THE LANDMARK  
DECISIONS OF THE US SUPREME COURT IN THE MID-1950'S.

2. ONE OF THE FINDINGS OF THE PART OF THE REPORT WHICH  
EMBOFFS SAW ONLY BRIEFLY, COULD CREATE POLITICAL  
PROBLEMS. THE GAO SUGGESTS NOT ONLY THAT US CIVILIAN  
COURT JURISDICTION OVER THE DESCRIBED CATEGORIES OF US

NATIONALS BE ESTABLISHED, BUT ALSO SUGGESTS THAT US CIVILIAN COURTS WITH JURISDICTION OVER SUCH US NATIONALS MIGHT BE ESTABLISHED ABROAD IN COUNTRIES WHERE A SUBSTANTIAL US PRESENCE OF THIS KIND EXISTS. THIS PROPOSAL COULD CAUSE DIFFICULTIES IF NOT HANDLED RIGHT. THE EMBASSY BELIEVES THAT TO SOME HOST NATIONS, PARTICULARLY DEVELOPING COUNTRIES LIKE THE PHILIPPINES, BUT ALSO THE FRG AND OTHERS, SUCH A PROPOSAL WILL SMACK, AT LEAST INITIALLY, OF THE FORMER CONSULAR COURT JURISDICTION AND OF COLONIALISM.

3. WE UNDERSTAND THAT A SEPARATE PART OF THE REPORT NOT SEEN BY EMBOFFS, THAT MAY RPT MAY BE CLASSIFIED, ATTEMPTS A CRITICAL EVALUATION OF THE CRIMINAL JUSTICE SYSTEMS OF SEVERAL COUNTRIES WHERE LARGE NUMBERS OF US FORCES ARE STATIONED.

4. EMBOFFS NOTED THAT THE PROPOSAL FOR US COURTS ABROAD WITH JURISDICTION OVER US CIVILIANS STATIONED ABROAD, WHETHER AS DEPENDENTS OR OTHERWISE, COULD BE PROBLEMATIC IN TERMS OF APPEARANCES AND WOULD PROBABLY REQUIRE NEGOTIATION OF AGREEMENTS CONCERNING THE LIMITS OF THEIR MANDATE AND THEIR STATUS, AS WELL AS SUPPORTING INFRASTRUCTURE FOR THEM. EMBOFFS EXPRESSED CONCERN TO LAMOTT THAT PUBLICATION OF GAO EVALUATION OF THE CONFIDENTIAL

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CRIMINAL JUSTICE SYSTEMS OF HOST NATIONS WOULD IN ALL PROBABILITY TOUCH A VERY SENSITIVE NERVE AND THAT THE REACTION OF HOST STATES COULD WELL SOUR RELATIONS BETWEEN THE US FORCES AND THE HOST STATE AUTHORITIES AND THUS HAVE IMMEDIATE DETRIMENTAL EFFECT ON TREATMENT OF ALL US PERSONNEL BY HOST STATE JUSTICE AUTHORITIES. IT COULD ALSO GENERATE REACTION THAT WOULD MAKE INFEASIBLE ANY ACTION TO COPE WITH THIS LONG-STANDING LACUNA IN CRIMINAL JURISDICTION THAT WOULD REQUIRE HOST STATE COOPERATION.

5. THE EMBASSY BRINGS THE ABOVE TO THE ATTENTION OF THE DEPARTMENT TO PERMIT IT TO TAKE WHATEVER STEPS MAY SEEM APPROPRIATE TO ENSURE THE PROPER HANDLING OF THIS REPORT AND ITS PROPOSALS AND THE GOVERNMENTAL REACTIONS TO IT IF IT IS TO BE PUBLISHED IN NON-CLASSIFIED FORM. THE DEPARTMENT MAY WISH TO COORDINATE WITH DOD ITS EFFORTS TO ENSURE THAT THE EVALUATIONS DESCRIBED IN PARA 3 ARE GIVEN AN APPROPRIATE CLASSIFICATION.  
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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** REPORTS, JURISDICTION, MILITARY PERSONNEL, DEPENDENTS  
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**Draft Date:** 18 aug 1978  
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**Decaption Note:**  
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**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
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